IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 5035 of 2006(Y)

PETITIONER:

VAKATHANAM GRAMA PANCHAYATH,(SPL.GRADE)
VAKATHANAM PO, KOTTAYAM DISTRICT, REPRESENTED
BY SPECIAL GRADE SECRETARY,S.ARVINDAKSHAN
UNNITHAN.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:
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1. THE DISTRICT SUPERINTENDENT OF POLICE,
KOTTAYAM.

2. THE CIRCLE NSPECTOR OF POLICE,
VAKATHANAM POLICE STATION, KOTTAYAM.

3. THE SUB INSPECTOR OF POLICE,
VAKATHANM POLICE STATION, KOTTAYAM.

4. JOSEPH THOMAS, AROGYAVILASAM, MANKOMBU,
THEKKEKKARA P.O.ALAPPUZHA.

ADDL.RESPONDENTS 5 TO 6:

ADDL.R5: GEOLOGIST,DEPT. OF MINING AND GEOLOGY,
COLLECTORATE, KOTTAYAM.

ADDL.R6: REVENUE DIVISIONAL OFFICER,COLLECTORATE,
KOTTAYAM.

ADDL.R5 AND R6 ARE IMPLEADED AS PER ORDER DATED
14.6.2006 IN I.A.NO.7928/2006.

BY ADV. SRI.JOMY GEORGE FOR R4
GOVT.PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).5035/2006 - APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE QUARRYING PERMIT DATED 15.10.2003 ISSUED TO THE 4TH RESPONDENT NUMBERED AS 696/2003-2004/1710/DOY/ML/2003.

EXT.P2: COPY OF THE NEWSPAPER REPORT AS APPEARED IN THE DESHABHIMANI DAILY DATED 13.5.2005 AND IN THE MATHRUBHOOMI DAILY DATED 14.5.2005.

EXT.P3: COPY OF THE JUDGMENT DATED 12.7.2005 IN W.P.(C).15454/2005.

EXT.P4: COPY OF THE JUDGMENT DATED 14.10.2005 IN R.P.701/2005.

EXT.P5: COPY OF THE SHOW CAUSE NOTICE CUM PROHIBITORY ORDER DATED 3.1.2006 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P6: COPY OF THE LETTER ISSUED BY THE PETITIONER TO GEOLOGIST, KOTTAYAM DATED 10.1.2006.

EXT.P7: COPY OF LETTER ISSUED BY THE GEOLOGIST, KOTTAYAM DATED 11.1.2006 TO THE PETITIONER.

EXT.P8: COPY OF ORDER DATED 25.1.2006 NUMBERED AS A2-2/2006 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P9: COPY OF LETTER DATED 25.1.2006 ISSUED BY THE PETITIONER TO THE REVENUE DIVISIONAL OFFICER, KOTTAYAM.BY

EXT.P10: COPY OF LETTER DATED 25.1.2006 ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P11: PHOTOGRAPHS OF THE AREA FROM WHERE LATERITE IS BEING REMOVED.

RESPONDENTS' EXHIBITS:

EXT.R4(a): COPY OF COUNTER FILED BY THE PANCHAYAT DATED 7.6.2005.

EXT.R4(b): COPY OF EXPLANATION SUBMITTED BY THE 4TH RESPONDENT BEFORE THE REVENUE DIVISIONAL OFFICER DATED JANUARY 2003.

EXT.R4(c): COPY OF REPORT OF THE REVENUE DIVISIONAL OFFICER DT.28.11.05

EXT.R4(d): COPY OF PHOTOGRAPH WHICH PROVES THE EXTRACTIONS OF SOIL FROM THE PROPERTY OWNED AND POSSESSED BY ONE BABY, THAIPARAMBIL HOUSE, WARD NO.18 OF VAKATHANAM PANCHAYAT DT.NIL.

EXT.R4(e): COPY OF PHOTOGRAPH WHICH PROVES THE EXTRACTIONS OF SOIL FROM THE PROPERTY OWNED AND POSSESSED BY ONE ROY, THEKKEKARA WARD NO.18, NEAR VALLIKKAVU-DAYARA ROAD IN VAKATHANAM PANCHAYAT DATED NIL.

EXT.R4(f): COPY OF PHOTOGRAPH SHOWING TAKING OF SOIL AND LATERITE STONE BY THEKKEKARA KUNJUMON DT.NIL.

EXT.R4(g): COPY OF PHOTOGRAPH SHOWING TAKING OF SOIL AND LATERITE STONE BY STHEKKEKARA ROY DTD. NIL.

EXT.R4(h): COPY OF PHOTOGRAPH SHOWING TAKING OF SOIL AND LATERITE STONE BY PALATHARA SONY DATED NIL.

(TRUE COPY)

vaa P.S. TO JUDGE

J.B. KOSHY & K.PADMANABHAN NAIR, JJ.

W.P.(C) No. 5035 of 2006 Y

Dated this the 19th day of December, 2006

Judgment

Koshy,J.

This is a petition for police protection for implementing Ext.P8 order. Fourth respondent was given a licence by the Department of Mining and Geology for quarrying. When local people objected, he obtained police protection from this court. The matter is covered by judgment dated 12.7.2005 in W.P.(C) No.15454 of 2005. In that petition, Panchayat is also a party as its Vice President, 12th respondent. Therefore, panchayat is also bound by the above judgment and it is for the petitioner panchayat, if aggrieved by the above judgment, to file appeal before the Supreme Court to get the order reversed. Ext.P8 is a subsequent order. We are of the opinion that by subsequent proceedings of the panchayat, judgment of this court, which was obtained after hearing the panchayat also, cannot be violated. At the same time, fourth respondent is bound to comply with the conditions in Ext.P1 and police to see that for removal of soil, permit conditions are strictly complied

with. If no valid permit is existing now, no soil or laterite can be removed except for top red soil.

J.B.KOSHY
JUDGE

K.PADMANABHAN NAIR
JUDGE

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